



WASHOE COUNTY

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CM/ACM	<u>JS</u>
Finance	<u>n/a</u>
DA	<u>PL</u>
Risk Mgt	<u>n/a</u>
HR	<u>n/a</u>
Compt	<u>n/a</u>

STAFF REPORT

BOARD MEETING DATE: June 13, 2017

DATE: May 30, 2017
TO: Board of County Commissioners
FROM: Kevin Schiller, Assistant County Manager
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THROUGH: John Slaughter, County Manager
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SUBJECT: Discussion and possible direction to staff on the Nevada Tax Commission's Regulations LCB File No. T002-17 concerning the recreational marijuana establishment early start program; initiation of ordinance changes for licenses, land use, and zoning regulations for recreational marijuana establishments within unincorporated Washoe County; and other related matters. (All Commission Districts.)

SUMMARY

Discussion and possible direction to staff on the Nevada Tax Commission's Regulations LCB File No. T002-17 concerning the recreational marijuana establishment early start program; initiation of ordinance changes for licenses, land use, and zoning regulations for recreational marijuana establishments within unincorporated Washoe County; and other related matters.

Washoe County Strategic Objective supported by this item: Safe, secure and healthy communities.

PREVIOUS ACTION

No previous action has been taken specific to recreational marijuana establishments in unincorporated Washoe County.

BACKGROUND

The Nevada Constitution was amended to legalize medical marijuana based on a vote of the people in 1998 and 2000. Nevada state law was changed in 2001 to allow qualified patients to use

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medical marijuana. The state program was created following the strict regulatory model used by the state of Arizona. Nevada Constitution Article 4, Section 38, requires the Nevada Legislature to authorize the use of medical marijuana by a patient, upon the advice of his or her physician, for certain chronic or debilitating conditions. Subsequently, the Nevada state law changed in 2013 to authorize the operation of medical marijuana establishments to produce, test and dispense medical marijuana and marijuana-infused products. Nevada Revised Statute further requires the licensing, taxation and regulation of medical marijuana establishments. Per requirements of the State, Washoe County Code was amended in April of 2014 to meet the requirements for licensing and regulating of medical marijuana facilities.

The 2016 ballot measure “Initiative to Regulation and Tax Marijuana” was initiated as a statewide statutory measure to amend state law with passage in November of 2016. In conjunction with its passage the State of Nevada, Department of Taxation adopted temporary regulations for the early start program for recreational marijuana T002-17 on May 8, 2017. The regulations allow for the following:

- Creates process to expedite the authorized sale of retail (or recreational) marijuana;
- Application Period ends May 31st ;
- Licensed Medical Marijuana Establishments in good standing are eligible;
- The Department of Taxation will not issue a temporary license until locality gives written notice of compliance with “distance requirements and zoning and land use rules adopted by the locality.”
- Temporary licenses expire April 1, 2018.

A Governor’s task force was formed to develop recommendations specific to recreational marijuana with participation statewide from all areas of local government, vendors, and the public. The following areas were established by subcommittee with approval of recommendations at the task force level. The final recommendations are pending at this time following review from the Governor:

- Consumer Safety/Education/Health
- Retail Establishments
- Taxation/Revenue/Regulatory Structure
- Transportation/Storage/Disposal*
- Laboratories
- Law Enforcement*
- Cultivation*Production/Manufacturing

NRS 453D

Nevada Revised Statutes NRS 453D allows a person 21 years or older to possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, 1 oz. or less of marijuana or 1/8 oz. or less of concentrated marijuana; possess, cultivate, process, or transport not more than 6 plants for personal use, so long as cultivation takes place in an enclosed area and so long as there are no more than 12 plants at a single residence at one time.

NRS 453D does not permit use in public, retail store or in a moving vehicle; driving while under the influence of Marijuana; persons under 21 years from entering retail store; providing marijuana to persons under 21 years of age; possession or use on or in a school; sales between individuals; home cultivation within 25 miles of retail store; chemical extraction without a license; or possession of a firearm while under the influence

Early Start Program

As outlined previously, the State of Nevada, Department of Taxation adopted temporary regulations for the early start program for recreational marijuana T002-17 on May 8, 2017. As a result the board may initiate ordinance changes for licenses, land use, and zoning regulations for recreational marijuana establishments within Washoe County. These changes would be in accordance with the temporary regulations, it is anticipated that additional ordinance changes would occur upon adoption of the permanent regulations following the 18 month period. This will likely include additional language related to future recreational facilities and selection outside of the current medical establishments.

Business License Fees

As the Board is aware with the pending conclusion of the 2017 legislative session, statutory changes are anticipated which may include funding mechanisms to support local jurisdictions. Business licensure fees were not changed with the implementation of Medical Marijuana establishments, however, pursuant to the temporary regulations; Washoe County staff is looking to develop temporary Business Licensure fees for approval at the first reading of code amendments that take into consideration current practices for medical marijuana, liquor fees, and timing of the public review process. Proposed options include:

- Fees remain the same as with MMEs (\$75 application and first year fee, annual fee based on annual gross receipts). No Business Impact Statement required;
- Adopt fees similar to current liquor fees. Quarterly fee. Fee is a set quarterly fee (e.g., \$300) and an additional \$1 for each \$1,000 in excess of \$25,000 in reported **annual** gross liquor receipts. The dollar amounts can be changed per Board direction, these are actual liquor fee amounts;
- Option similar to liquor fees, except that the additional fee is a percentage (e.g., 5%) of the total amount of **annual** gross receipts in excess of \$25,000.

- Similar to liquor fees, with exception that the gross receipts are **quarterly**. This is the approach taken by Sparks, however it does require more administrative support. A business would typically report fees at the end of the **quarter**, which means that billing cannot go out until we have the reported gross receipts to prepare the invoice. Under this option it is recommended that a provision be included for penalties for late payment. Within the current fee structure for liquor, a penalty is imposed if a fee is not paid within 30 days of start of quarter, and then automatic revocation at 90 days or start of next quarter.
- Flat \$75,000 fee.

FISCAL IMPACT

The possible fee structure for unincorporated Washoe County and local government is pending within the 2017 legislative session so an amount is unable to be determined. Once a fee structure has been identified related to business licensure, an estimated total will be provided to the Board based on projections with existing certificate holders who receive approval pursuant to the regulations.

RECOMMENDATION

It is recommended the Board of County Commissioners discuss and give possible direction to staff on the Nevada Tax Commission's Regulations LCB File No. T002-17 concerning the recreational marijuana establishment early start program; initiation of ordinance changes for licenses, land use, and zoning regulations for recreational marijuana establishments within unincorporated Washoe County; and other related matters.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to direct staff on the Nevada Tax Commission's Regulations LCB File No. T002-17 concerning the recreational marijuana establishment early start program; initiation of ordinance changes for licenses, land use, and zoning regulations for recreational marijuana establishments within unincorporated Washoe County; and other related matters.”